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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/828,695

04/21/2004

Steven Roy Gosewehr

7087

7590

09/15/2006

Steven R. Gosewehr
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EXAMINER

SHAH, AMEE A

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,695

Applicant(s)

GOSEWEHR, STEVEN ROY

Examiner

Amea A. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 6/25/04.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 13-24 are pending in this action.

Response to Amendment

Applicant's Amendment, filed July 3, 2006, has been entered. Claims 1-12 have been cancelled. Claims 13-24 have been added. The non-patent literature cited in the Information Disclose Statement of June 25, 2004, has been provided; therefore, the objection to the Information Disclosure Statement is withdrawn, and the material has been considered. New drawings were not submitted, and therefore the objections to the drawings remain.

Response to Arguments

Applicant's arguments with respect to claims 13 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(m) and (p) because (1) they contain improper shading that does not aid in the understanding of the invention and will not reproduce properly; and (2) they contain text that is almost illegible as being too small and will not reproduce properly.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

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even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Examiner Note

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-16 and 19-22 are rejected under 35 U.S.C. 103 as being anticipated by Liebman, US 2003/0046166 A1, cited by Applicant (hereafter referred to as “Liebman”), in view of Attar et al., US 2004/0030596 A1 (hereafter referred to as “Attar”).

Referring to claim 13. Liebman discloses a method for electronically communicating product information to customers, accepting, and processing orders for food service related products utilizing interactive personalities in the form of animated characters that interact graphically and by audio with users such as customers and employees and helps to prompt said users through ordering and order processing, comprising the steps of:

- providing a first means for displaying said interactive personalities (pages 2-3, ¶¶0030-0031 – note that the means for displaying is the touch-screen panel and that the panel can display audio and/or visual displays),
- providing a second means for the customer to interact with the system by inputting responses to product options presented to said user on said display means (pages 2-3, ¶¶0030-0021 – note the means for interacting is the touch-screen panel),
- providing a third means to respond to input of said user (page 3, ¶0031-0032),
- providing a fourth means of payment input so that said customer can pay for their order (page 3, ¶¶0031-0033),
- providing a fifth means to process said payment (page 3, ¶¶0032-0033),
- providing a sixth means to acknowledge receipt of said customer's payment and complete the method of transaction (page 3, ¶0032 – note the means for acknowledgement is the printed receipt),

whereby said customer will be able to complete an entire order and transaction quickly

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and easily without the assistance of a human employee by interacting with said animated guide.

Liebman, however, does not explicitly teach displaying interactive personalities in the form of animated characters that interact graphically and by audio with users such as customers and employees and helps to prompt said users through ordering and order processing. Attar, in the same field of endeavor or electronic shopping, discloses a method and system wherein interactive personalities in the form of animated characters interact graphically and audio to assist users and employees in ordering (Figs. 2-4 and pages 1-4, ¶¶0008-0030, 0036-0038, 0060-0063 and 0066). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Liebman to include the teachings of Attar to allow for the display of interactive personalities in the form of animated characters that interact graphically and by audio with users such as customers and employees and helps to prompt said users through ordering and order processing. Doing so would provide for a more humanizing, helpful and personal electronic experience for users and employees, thereby increasing customer satisfaction, as suggested by Attar (page 1, ¶¶0004-0005).

Referring to claim 14. Liebman further discloses the method of claim 1 wherein said user interacts with the system by touching items on a means for accepting physical interaction, which could include touching said screen and typing on a keyboard (page 3, ¶¶0030-0031 – note the means for interaction is the touch-screen panel).

Referring to claim 15. Liebman further discloses the method of claim 1 wherein said user interacts with the system by voice commands that are processed using a means for voice recognition (page 3, ¶¶0034 and 0036).

Referring to claim 16. Liebman further discloses the method of claim 1 wherein said means for inputting payment includes the ability to read magnetic cards such as credit cards and debit cards (page 3, ¶¶0032-0033).

Referring to claims 19-22. All of the limitations in apparatus claims 19-22 are closely parallel to the limitations of method claims 13-16, analyzed above and are rejected on the same bases.

Claims 17, 18, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebman in view of Attar as applied to claims 13 and 19 above, and further in view of Dev et al., US 2004/0158499 A1 (hereafter referred to as “Dev”).

Referring to claim 17. Liebman in view of Attar discloses the method of claim 13, but does not explicitly disclose wherein said means for inputting payment includes the ability to accept hard currency such as paper money and the ability to dispense change. Dev, in the same field of endeavor or electronic shopping, discloses a system and method for allowing a user to select desired items through a data-entry terminal at a restaurant or store or through a network including providing a first means for displaying an animated guide, providing a second means for the customer to interact with the display by inputting responses to product options presented

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to said user on said display means, providing a third means to respond to input of said user, providing a fourth means of payment input so that said customer can pay for their order, providing a fifth means to process said payment, providing a sixth means to acknowledge receipt of said customer's payment and complete the method of transaction (pages 3 and 6, ¶¶0044 and 0075), wherein said means for inputting payment includes the ability to accept hard currency such as paper money and the ability to dispense change (page 3, ¶0044 – note the means for inputting payment may include a bill acceptor, bill dispenser, and coin acceptor/dispenser as part of the peripheral components).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Liebman in view of Attar to include the teachings of Dev to allow for the means for inputting payment to include the ability to accept hard currency such as paper money and the ability to dispense change. Doing so would allow for a user to make payments both electronically and conventionally, providing the user with more payment options, thereby increasing the likelihood of a purchase.

Referring to claim 18. Liebman in view of Attar discloses the method of claim 13 but does not explicitly disclose wherein the means for processing payment is handled by an external 3rd party means of processing payments. Dev, in the same field of endeavor of electronic shopping, and as described with reference to claim 17, discloses a system and method for allowing a user to select desired items through a data-entry terminal at a restaurant or store or through a network including wherein means for processing payment is handled by an external 3rd

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party means of processing payments (pages 4 and 5, ¶¶0053 and 0069 – note the third party is the credit authorization bureau).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Liebman in view of Attar to include the teachings of Dev to allow for the means for the means for processing payment to be handled by an external 3rd party means of processing payments. Doing so would allow for the food service provider to ensure that electronic payments are authorized, decreasing the provider's pilfering costs, and increasing profit.

Referring to claims 23 and 24. All of the limitations in apparatus claims 23 and 24 are closely parallel to the limitations of method claims 17 and 18, analyzed above and are rejected on the same bases.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Sidio et al., US 2006/0178945 A1, discloses a point of sale computer system that allows a customer to select and consummate a sale himself, including displaying two- and three-dimensional graphics relating to the sale, such as a virtual salesperson that speaks to a customer (*see, e.g.*, pages 3-5).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

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Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ameer A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

September 11, 2006


YOGESH C. GARG
PRIMARY EXAMINER
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